

Appl. No. 09/812,124
Amdt. Dated October 27, 2004
Reply to Office action of July 29, 2004
Attorney Docket No. P13754-US1
EUS/J/P/04-2145

REMARKS/ARGUMENTS

1.) Claim Amendments

The Applicant has amended claim 5. Claims 1-11 remain pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2.) Examiner Objections - Claims

The Examiner objected to claim 5 because of an informality. The Applicants have amended claim 5 to correct the typographical error noted by the Examiner.

3.) Claim Rejections – 35 U.S.C. §103(a)

The Examiner rejected claims 1, 2, 6 and 7 as being unpatentable over Subbiah (US 6,717,948) in view of Caves, et al. (US 6,665,300); claims 3-5 and 8-11 as being unpatentable over Subbiah in view of Caves and further in view of the Admitted Prior Art as shown in Figs. 1 and 2. The Applicants traverse the rejections.

With respect to the Examiner's rejection of claim 1, the Examiner asserts that Subbiah discloses "if a CID is available, then determining if bandwidth is available on the direct VCC," referring to Fig. 2 and column 3, lines 13-23 of Subbiah. Applicants have carefully reviewed Subbiah, particularly the portion referenced by the Examiner, and cannot identify any teaching therein of "determining whether a channel identifier ("CID") is available on a direct virtual connection channel ("VCC") in response to a connection request," as recited in step "(a)" of claim 1. In fact, the Examiner recognizes that Subbiah "failed to clearly disclose the step (a) of the method." Accordingly, if

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Subbiah fails to disclose that step, it also fails to disclose determining if bandwidth is available on the direct VCC *if a CID is available*, as recited in the second step of claim 1.

The Examiner attempts to overcome the explicit deficiency of Subbiah by asserting that Subbiah inherently discloses determining whether a CID is available on a direct VCC in response to a connection bequest because Subbiah discloses a "packet header having a CID 202." Even if Subbiah discloses a packet header having a CID, the Applicants have not merely claimed a CID, but a process in which it is determined whether a CID is available and, in response to that determination, performing other additional functions. Subbiah fails to disclose the performing of such additional functions.

The Examiner next asserts that Caves "clearly disclosed such determining whether a CID is available on a direct VCC in response to a connection request." Even assuming that Caves discloses determining whether a CID is available, Caves suffers from the same deficiency of Subbiah; i.e., Caves fails to disclose a process in which it is determined whether a CID is available and, in response to that determination, performing the other additional functions recited in claim 1. Thus, whereas both Subbiah and Caves fail to disclose the performing of the additional functions recited in claim 1, the Examiner has not established a *prima facie* case of obvious of claim 1.

With respect to claim 2, the Examiner asserts that Subbiah further discloses the step of (b1) – "setting up a new direct VCC to a destination if bandwidth is not available on the direct VCC." As noted *supra*, however, Subbiah and Caves fail to disclose the

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limitations of claim 1, from which claim 1 depends, and, therefore, claim 2 is also not obvious over Subbiah and Caves.

With respect to claims 6 and 7, the Examiner rejected them as comprising limitations the same as claims 1 and 2, respectively, except that the communication network comprises a plurality of ATM nodes. As noted *supra*, Subbiah and Caves fail to disclose the limitations of claims 1 and 2, and, therefore, claims 6 and 7 are also not obvious over Subbiah and Caves.

With regard to claim 3, the Examiner asserts that Subbiah discloses steps (a) and (c), relying on the earlier assertion that steps (a) and (b) of claim 1 were disclosed by Subbiah. The Applicants note that, although steps (a) and (b) of claim 1 and steps (a) and (c) of claim 3 are similar, the steps of claim 1 apply to "direct" virtual connection channels while the steps of claim 3 apply to "indirect" direct virtual connection channels. As with the Examiner's rejection of claim 1, the Applicants have carefully reviewed Subbiah, particularly the portion referenced by the Examiner, and cannot identify any teaching therein of "determining whether a channel identifier ("CID") is available on an indirect virtual connection channel ("VCC") in response to a connection request," as recited in step "(a)" of claim 3. In fact, the Examiner recognizes that Subbiah "failed to clearly disclose the step (a) of the method" of claim 1. Accordingly, if Subbiah fails to disclose that step, it also fails to disclose determining if bandwidth is available on the direct VCC *if a CID is available*, as recited in the step (c) of claim 3. Whereas Caves fails to overcome those deficiencies of Subbiah, as established *supra* with respect to claim 1, the Examiner has not established a *prima facie* case of obvious of claim 3.

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Whereas claims 4 and 5 are dependent from claim 3, and include the limitations thereof, claims 4 and 5 are also not obvious over Subbiah in view of Caves. With respect to claims 8 and 9, the Examiner rejected them as comprising limitations the same as claims 3 and 4, respectively, except that the communication network comprises additional elements. As noted *supra*, Subbiah and Caves fail to disclose the limitations of claim 3 and 4, and, therefore, claims 8 and 9 are also not obvious over Subbiah and Caves.

* * *

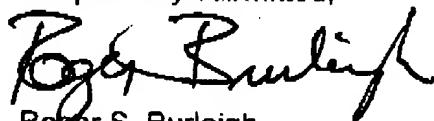
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CONCLUSION

In view of the foregoing amendments and remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicants, therefore, respectfully request that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 1-11.

The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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